



Market surveillance – Tools and difficulties

The evolution seen from an authority perspective

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Important documents

- General Product Safety Directive 2001/95 (GPSD)
- Regulation 765/2008 of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products
- Decision 768/2008 of 9 July 2008 on a common framework for the marketing of products

Figure 2 – Number of notifications 2003–2009



- 2003: 67
- 2009: 1699 (= 67 x 25)
- Member states have to deal with the information (over)flow

Regulation 765/2008 of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products

Regulation 765/2008

Requirements regarding market surveillance

- inform the Commission and the public of the existence, responsibilities and contact details of national market surveillance authorities
- establish, implement and periodically update their market surveillance programmes. They **communicate** those programmes to the **other Member States** and the Commission and make them **available to the public**
 - sharing information permits a better **cooperation** between authorities
 - making the NMSP public results in a higher **transparency**. Strong and weak points in the system in the system can be spotted easily

Regulation 765/2008

Requirements regarding market surveillance

- Member States shall **periodically review and assess** the functioning of their surveillance activities. The results shall be communicated to the other Member States and the Commission and be made available to the **public**.
 - systematic review permits to detect problems earlier and to make the necessary changes faster
 - good practises can be detected
 - Member states can learn from each other

Regulation 765/2008

Requirements regarding market surveillance

- Member States shall establish adequate procedures in order to follow up scientific and technical knowledge concerning safety issues.
 - For small MS it is impossible to follow this up for all sectors and all possible safety issues.
 - “Buy” knowledge from laboratories ?
 - Cooperation with other MS (sharing knowledge) can be a solution

Regulation 765/2008

Requirements regarding market surveillance

- The market surveillance authorities of one Member State shall give the market surveillance authorities of other Member States assistance on an adequate scale by supplying information or documentation, by carrying out appropriate investigations or any other appropriate measure and by participating in investigations initiated in other Member States
 - economic operators which do not cooperate can be forced to cooperate via their “home authority”
 - language problems
 - expectations on measures taken (or not) can create disappointments
 - first step to a general European “home authority principle” ?
 - interesting for small MS

Regulation 765/2008

Requirements regarding market surveillance

- The authorities in charge of the control of products entering the Community market shall carry out appropriate checks on the characteristics of products on an adequate scale.
 - efficient controls at the border stop non conforming products to enter the community
 - the earlier in the commercial chain a non conforming product is stopped, the easier and the more efficient

Regulation 765/2008 – Conclusions

- Before the regulation, market surveillance was only a few lines in each directive
- Now, market surveillance is a theme as such with a high visibility
- Transparency on market surveillance activities will put pressure on less active MS
- Think “national” → think “Europe”
- Cooperation and exchange of information between authorities are the key to success

Decision 768/2008 of 9 July 2008 on a common framework for the marketing of products

Decision 768/2008 of 9 July 2008 on a common framework for the marketing of products

- common framework of general principles and reference provisions for the drawing up of Community harmonisation legislation.
 - definitions
 - conformity assessment procedures
 - obligations of economic operators
 - simplified safeguard procedure
 - obligations of notified bodies (standardisation, coordination, accreditation)

Obligations of importers

- only import / distribute compliant products
- conformity assessment procedure
- technical documentation
- markings
- documents
- indicate name importer
- language user instructions
- corrective measures
- identify suppliers and clients (economic operators)

Obligations distributors

- act with due care
- markings
- documents
- language user instructions
- corrective measures
- identify suppliers and clients (economic operators)

Impact on market surveillance

- Importers and distributors are obliged to do their “homework”
- If economic operators satisfy their obligations, the products imported and distributed will probably be compliant
- Market surveillance can shift from “product controls” to “company controls” (for importers and distributors)
- Interesting for Member states with only a few manufacturers
- More efficient market surveillance

Evolution in “difficulties”

15 to 10 years ago

- A lot of products were not accompanied by test reports.
 - Results of tests by market surveillance authorities were not contested;
 - Easy for market surveillance authorities to convince the economic operators to take corrective actions;
 - Market surveillance could be done by visual inspection and asking for test reports.

Now

- Due to market surveillance activities and communication about the revised GPSD (2002) and the NLF (2008), importers and distributors (chain stores) ask their manufacturers more often for test reports.
- Test reports exist, but the products do not pass the test carried out by / for market surveillance authorities
- Difficult to convince the importer / distributor that there is a problem.

Reasons for non conformities

- Only partial tests have been carried out
 - Test reports correspond to other products
 - Production quality is poor
 - How many products are not in conformity ?
 - Different interpretation of the standards by the laboratories
 - Which one is right ?
 - Can we accept both interpretations ?
- ➔ ***Market surveillance authorities need more (technical) knowledge on a higher level***

Summary

- Market surveillance authorities have more obligations and better tools
- Market surveillance authorities have to deal with a mass of information on non compliant products
- Market surveillance authorities need more (technical) knowledge on a higher level
- Cooperation and exchange of information between authorities on a European level, are the key to success

Thanks for your attention !